In re: VIOXX

Products Liability Litigation

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This Document Relates to:

MDL No. 1657

STATE OF LOUISIANA, ex rel. JAMES D.

SECTION L

CALDWELL, JR., Attorney General,

JUDGE ELDON E. FALLON

Plaintiff,

MAGISTRATE JUDGE

* KNOWLES

versus

MERCK SHARP & DOHME CORP.,

-1-

Defendant.

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Case No. 05-3700.

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CORRECTED SECOND AMENDED PRETRIAL ORDER NO. 53 (Amended Case Management Schedule)

I. <u>APPLICABILITY AND PURPOSE OF ORDER</u>

This Order sets forth an amended comprehensive trial schedule for *State of Louisiana ex rel. Caldwell v. Merck Sharp & Dohme Corp.* (No. 05-3700) to ensure that this case is prepared and tried in this Court in an expeditious manner. To the extent any conflict exists between this Order and any previous order regarding this action, this Order shall supersede such prior orders. Plaintiffs' Liaison Counsel shall promptly provide this Order to Plaintiffs in the Government Actions in this Court at the time of the Order, and to plaintiffs in all Government Actions transferred to this Court as and when they are so transferred.

II. AMENDED TRIAL SCHEDULE

A. Master Requests for Production of Documents and Interrogatories

Written discovery in this case shall continue to be governed by the provisions outlined in Paragraphs IV.B.1.b-c. of Pretrial Order No. 39. All discovery in this case shall be completed no later than February 9, 2010.

B. Written Requests for Admission

The parties may serve Requests for Admission at any time, except that no Requests for Admission may be served after December 18, 2009.

C. Exchange of Fact Witness Lists

The parties shall exchange lists of fact witnesses no later than November 16, 2009.

D. Depositions

Depositions shall proceed pursuant to the provisions outlined in Paragraph V. of Pretrial Order No. 39, except that depositions shall be completed no later than February 9, 2010.

E. Expert Discovery

Plaintiff shall make its non-damages expert disclosures no later than November 6, 2009, and Defendant shall make its non-damages expert disclosures no later than December 7, 2009. Plaintiff's non-damages rebuttal expert reports shall be served no later than December 21, 2009. Plaintiff's damages expert reports shall be served no later than December 22, 2009. Defendant's damages expert reports shall be served no later than January 21, 2010. Plaintiff's damages rebuttal expert reports shall be served no later than January 28, 2010.

F. Status Conferences

Status conferences will take place every other week beginning January 7, 2010, unless otherwise ordered by the Court.

G. Pretrial Schedule

1. Dispositive Motions and Daubert Motions.

Dispositive motions, including motions for summary judgment, shall be filed and served no later than February 19, 2010. Responses to summary judgment motions shall be filed and served no later than March 9, 2010. Replies in support of summary judgment motions shall be filed and served no later than March 16, 2010.

Daubert motions shall be filed and served no later than February 19, 2010.

Responses to Daubert motions shall be filed and served no later than February 26, 2010.

Replies in support of Daubert motions shall be filed and served no later than March 5, 2010.

The Court will hear argument on *Daubert* motions on March 12, 2010 at 9:00 a.m., unless a different date or time is set by the Court.

The Court will hear argument on dispositive motions on March 24, 2010 at 9:00 a.m., unless a different date or time is set by the Court.

2. Deposition Designation and Exhibit Disclosures.

The parties shall serve their deposition designations for witnesses, along with exhibit lists and copies of exhibits they plan to use at trial, on March 15, 2010. The parties shall serve deposition counter designations for witnesses on March 25, 2010. Objections to exhibits and deposition designations shall be filed no later than March 29, 2010. Defendant will tender pre-trial inserts to Plaintiff's counsel no later than March 29, 2010.

3. Motions in Limine.

Motions *in limine* shall be filed and served no later than February 26, 2010.

Responses to motions *in limine* shall be filed and served no later than March 12, 2010.

Replies in support of motions *in limine* shall be filed and served no later than March 19, 2010. The Court will hear argument on the parties' motions *in limine* on March 26, 2010 at 9:00 a.m., unless a different date or time is set by the Court.

4. Proposed Jury Materials.

The parties shall submit proposed jury materials (including instructions and questionnaires) on April 1, 2010.

5. Pretrial Order and Conferences.

The Parties shall attend a settlement conference on March 12, 2010, at 9:00 a.m., unless a different date or time is set by the Court. Plaintiff shall submit a proposed final pretrial order on March 25, 2010. The parties shall appear before the Court for a pretrial conference on March 26, 2010, at 9:00 a.m., unless a different date or time is set by the Court.

6. Trial Date.

Trial shall begin on April 12, 2010 at 8:30 a.m. before a jury, and shall last for two weeks. Counsel should report to chambers at 8:00 a.m.

III. FEDERAL RULES OF CIVIL PROCEDURE APPLICABLE

Unless specifically modified herein, nothing in this Order shall be construed to abrogate the Federal Rules of Civil Procedure.

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Dated:

United States District Judge